

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

PENNY L. RUSSELL,

Plaintiff,

v.

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

Case No. C23-5690-RSM

ORDER GRANTING PLAINTIFF'S
MOTION FOR ATTORNEY FEES
UNDER 42 U.S.C. § 406(b)

This matter comes before the Court on Plaintiff's unopposed Motion for Attorney Fees 42 U.S.C. § 406(b). Dkt. #21. Plaintiff seeks fees in the net amount of \$16,511.12 out of \$98,418 in past due benefits. This accounts for a previous Equal Access to Justice Act ("EAJA") fee award of \$8,093.38. *Id.*; *see also* Dkt. #20. Defendant neither supports nor opposes counsel's request and did not otherwise respond. *See* Dkt. #21 at 1.

Attorney's fees may be awarded to a successful social security claimant's lawyer for his or her representation before a court pursuant to 42 U.S.C. §§ 406(b). *Straw v. Bowen*, 866 F.2d 1167 (9th Cir.1989). Plaintiff must apply to the Social Security Administration for an award of fees for representation at the administrative level. 42 U.S.C. § 406(a); *Stenswick v. Bowen*, 815

1 F.2d 519 (9th Cir. 1987). Under 42 U.S.C. § 406(b), the Court may allow a reasonable fee for
2 an attorney who represented a Social Security Title II claimant before the Court and obtained a
3 favorable judgment, as long as such fee is not in excess of 25% of the total past-due benefits. *See*
4 *Grisbrecht v. Barnhart*, 535 U.S. 789 (2002).

5 Fee awards may be made under both the EAJA and § 406(b), but the claimant's attorney
6 must refund to the claimant the amount of the smaller fee. *See Gisbrecht v. Barnhart*, 535 U.S.
7 789, 796 (2002).

8 The Court concludes that the request is reasonable within the meaning of § 406(b).
9 Accordingly, having reviewed Plaintiff's Motion, the exhibits and declarations attached thereto,
10 and the remainder of the record, the Court finds and ORDERS that Plaintiff's Motion for
11 Attorney Fees Under 42 U.S.C. § 406(b), Dkt. #21, is GRANTED. Plaintiff's counsel is awarded
12 \$16,511.12 in attorney fees under 42 U.S.C. § 406(b), which is the gross § 406(b) fee of
13 \$24,604.50 less the previously awarded EAJA fee of \$8,093.38. When issuing the Section 406(b)
14 payment to Plaintiff's attorney, the Commissioner is directed to send Plaintiff's attorney, H. Peter
15 Evans, the balance of \$16,511.12 in accordance with agency policy.

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17 DATED this 17th day of June, 2025.

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20 RICARDO S. MARTINEZ
21 UNITED STATES DISTRICT JUDGE
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